

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

STATE OF OKLAHOMA, *et als.*,

Plaintiff,

v.

Action No. 3:08-CV-612

JAIME ALVARO BURBANO, a.k.a.  
JAIME ALVARO-BURBANN, a.k.a.  
JAIME-ALVARO BURBANO,

Defendant.

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant's Notice of Removal to the Eastern District of Virginia and Counterclaim (Docket No. 1). For the reasons set forth in this Opinion, Defendant's request is DENIED.

BACKGROUND

Defendant filed a Notice of Removal and Counterclaim with this Court on September 22, 2008. Defendant failed to provide state court pleadings accompanying his Notice of Removal. On September 29, 2008, Defendant also filed an Emergency Ex Parte Motion (Docket No. 2).

DISCUSSION

In order for a defendant to remove a civil action or criminal prosecution from a State Court provided they must "file in the district court of the United States for the district and division within which such action is pending a notice of removal." 28 U.S.C. § 1446 (a) (2008). The notice of removal must contain "a short and plain

statement of the grounds for removal, together with a copy of all process, pleadings and orders served upon such defendant . . . in such action." Id.

The proceedings which Defendant is attempting to remove are currently pending in the District Court in and for Tulsa County, Oklahoma. The proper district court of the United States for this particular jurisdiction is the Northern District of Oklahoma, not this Court. For this reason, this case is nonremovable to this Court, Defendant's Motion for Removal is DENIED, and the case is REMANDED to the Tulsa County District Court.

Furthermore, this Court declines to rule on the Defendant's Motion for Emergency Relief (Docket No. 2) as the claim is moot because this matter is not properly before this Court.

Let the Clerk send a copy of this Order to all counsel of record.

It is SO ORDERED.

<p style="text-align: center;">_____ /s/ James R. Spencer Chief United States District Judge</p>
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ENTERED this 7<sup>th</sup> day of October 2008